Single Bench

CF 1002

IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

WRIT PETITION (S)NO. 4986 /2006

Smt. Vidya Bai,
W/o- Shrivijay Kumar,
Aged about 43 years,
Presently working as Sweeper in Kamla Nehru Pre Matric Hostal, Bilaspur,
R/o- New Sarkanda, Near Muktidham Chowk,
Bilaspur, Distt. Bilaspur,
Chhattisgarh. **PETITIONER**

P.R. No. 4986/06
Presented by Shri Sanjay Shrivastava
dated 8/9/06

VERSUS

1. State of Chhattisgarh,
Through- Secretary,
Deptt. of Tribal Welfare
D.K.S. Bhawan, Mantralaya,
Raipur, Chhattisgarh.

2. Commissioner,
Tribal Welfare (SC, ST & Tribal Development),
Raipur, Chhattisgarh.

3. Collector,
Bilaspur,
Distt. Bilaspur,
Chhattisgarh.

4. Assistant Commissioner,
Tribal Welfare (SC, ST & Tribal Development),
Bilaspur, District Bilaspur,
Chhattisgarh.

5. District Organizer
Harijan & Scheduled Caste Development,
Bilaspur, Chhattisgarh. **RESPONDENTS**

OATH COMMISSIONER
APARNA MALVIYA
CG-07/3/96
Bilaspur Chhattisgarh

ATTESTED-COPY
8/9/06
R. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT IN THE NATURE OF MANDAMUS, CERTIORARI ETC.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 4986 of 2006

Petitioner : Smt. Vidya Bai

Versus

Respondents : The State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Pankaj Shrivastava,Advocate for the Petitioner.

Smt. Anju Ahuja, Dy. Govt. Advocate for the respondents/State.

ORDER

(12th September, 2006)

1. The petitioner was initially appointed on daily wages basis as Sweeper (Safai Karmchari) by the District Organizer Harijan Development, Bilaspur by order dated 25.11.1986 (Annexure P/2) for a period of 89 days.

2. Service of the petitioner was regularized as Sweeper by order dated 30.10.1993 (Annexure P/3) and the salary of the petitioner was fixed Rs. 883/- per month as per Collector rate, which was subsequently revised by the Collector from time to time and in the month of June, 2000 she was getting Rs. 1800/- per month.

3. Learned counsel for the petitioner submits that the respondents issued the circular dated 10.7.2000

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(Annexure P/1) and on the basis of that the salary of the petitioner was reduced from Rs. 1800/- per month to 300/- per month. Subsequently, the salary of the petitioner was increased from Rs. 300/- to 509/- w.e.f. 6.3.2004.

4. The petitioner has filed this petition challenging the impugned order dated 10.7.2000 (Annexure P/1), whereby the salary of the petitioner was reduced from 1800/- to 300/- per month.

5. Smt. Anju Ahuja, learned Dy. Govt. Advocate appearing for the respondents submits that Scheduled Caste and Scheduled Tribe Welfare Department, Govt. of Madhya Pradesh by order dated 10.7.2000 (Annexure P/1) has imposed a ban on all appointments, therefore, it was decided to pay an amount of Rs. 300/- per month to the petitioner as monthly wages.

6. After hearing learned counsel for the parties and perusing the records, it is established the petitioner was appointed way back in 1986 as daily wages employee. Thereafter the petitioner has been continuing as Sweeper. According to learned counsel for the petitioner, the petitioner was regularized by order dated 30.10.1993 as Sweeper, the so called ban imposed by order dated 10.7.2000 is not applicable to the case of the petitioner as she has been working since 25.11.1986. The decision of the respondents to pay an amount of Rs. 300/- per month is without any basis as the daily wagers

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are paid on the basis of daily wages, fixed by the Collector and not on the monthly basis.

7. It is well settled principle of law that reduction of salary tantamounts to imposition of major penalty visiting with civil consequences. No order imposing penalty, stigma or reduction in rank or salary can be passed against an employee without affording him proper opportunity of hearing to put forward his case. In the present case, the principle of natural justice and fair-play in action has not been followed before reducing the salary of the petitioner from Rs. 1800/- to 300/-, may be for whatsoever reasons. Thus, this order dated 10.7.2000 (Annexure P/1) is vitiated and deserves to be and is quashed. The petitioner is entitled to all the benefits flowing from this order passed, today.

8. For the aforementioned reasons, the writ petition is allowed and the respondents are directed to pay back wages to the petitioner as prescribed in the order dated 8.9.2002 (Annexure P/4), within a period of three months from the date of receipt of a copy of this order.

Sd/-
Satish K.Agnihotri
Judge

Bablu